WP(C) 2399/2001
BEFORE

HON'BLE SMT. JUSTICE A. HAZARIKA

WP(C)No.2399/2001

PRESENT
HON'BLE MRS JUSTICE A. HAZARIKA

08.02.07

Heard Mr. A. Maleque, learned counsel for the petitioners. Also heard Mr. VM Thomas, learned Standing Counsel, Education Department and Mr. S. Sarmah, learned Standing Counsel, Sarba Siksha Abhijan.

The petitioners' case is that they were appointed as Instructors/Instructresses under the Non-Formal Education Scheme sponsored by the Central Government and implemented by the Government of Assam. Their services were extended from time to time up to 31.3.01 but on coming to an end of the Non-Formal Education Scheme, their services were terminated with effect from 31.3.2001 (Annexure-10). However, the respondents have absorbed other employees of the erstwhile Non-Formal Education Scheme in different levels in Government Service.

The petitioners are before this court praying for appropriate direction to take up their cases at par with the said employees. Mr. Thomas, learned SC, Education Department has submitted that a detailed affidavit-in-opposition has been filed in WP(C) No.2319/01 which covers the instant writ petition also, wherein at paragraph-7 it has been stated as follows:

7. Regarding Instructors/Instructresses:

That as regards Instructors/Instructresses, the Deponent begs to state that they were engaged purely on ad-hoc basis at a fixed remuneration of Rs.200/- per month for one NFE phase of a duration of 2 years. It was not mandatory that an Instructor would be again appointed for the next phase of the scheme. At any rate their tenure of service was co-extensive with the life-term of the Scheme and would have to necessarily come to an end when the Scheme was discontinued. In this connection it may be mentioned that two writ petitions, WP(C) No.5792/2001 and 3235/2006, filed by instructors/instructresses were disposed of by this Hon'ble Court on 14.6.2006 and 29.6.2006 respectively directing the respondent-authority to take a final decision in the matter. Accordingly, the Government has passed a speaking order in this regard issued under memo No. ASE.438/2006/40-A dated 8th November, 2006, wherein it has been clearly stated that the Government do not have any policy to adjust the instructors/instructresses. However, on humanitarian grounds the Mission Director, SSA, has been requested to utilize the services of those petitioners under the SSA Scheme whenever possible. A similar order had been passed by the Government on an earlier occasion too, i.e. on 3oth June, 2004, pursuant to the order passed by this Hon'ble Court in WP(C) No.2893/2004.

The statements made in paragraph-7 shows that the Government has already passed a speaking order on 8.11.2006 wherein, it has been clearly stated that the Government does not have any policy to adjust the Instructors/Instructresses. However, on humanitarian grounds, the Mission Director, SSA, has been requested to utilize the services of those petitioners under the SSA Scheme whenever possible.

On a query made by this court as to whether the petitioners are going to be absorbed by the SSA, Mr. S. Sarmah, learned Standing Counsel, SSA has submitted that as per instructions received by him the SSA, Assam itself is a time bound project supposed to be wind up by the year 2010. All the posts created under the Project are of purely temporary nature and persons are engaged either on contract basis or on deputation/adjustment. In case of employees of Govt./Public underta

kings and all other posts of the State level, district level and block level are to be filled up through selection procedure of SSA as per provisions of SR and FR, 2003, Assam. At present, there is no scope for utilizing the services of the Instructors/Instructresses at the state, district and block level as there are no equivalent posts of instructors/instructresses of NFE in the SSA. The existing vacant posts are advertised through local newspapers from time to time. Therefore, there is no bar in applying for the vacant posts by the Instructors/Instructresses of Non Formal Education having requisite qualifications for contractual engagement. In case they apply for the same their experience will be taken into consideration at the time of interview.

I have heard the learned counsel for the parties and considered their submissions.

In view of the above position, this writ petition is disposed of with a direction that as and when vacancy arises, the petitioners shall apply for the same and the authority shall consider their experience at the time of interview for the posts.

The writ petition is accordingly disposed of with the aforesaid direction. However, there shall be no order as to cost.

Interim order, if any, passed earlier stands vacated.

JUDGE

Mdb.